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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Bob Tang

4135

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7590

01/26/2006

MCGLEW & TUTTLE, PC

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EXAMINER

SHAH, CHIRAG G

ART UNIT

PAPER NUMBER

2664

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/779,939		TANG, BOB	
	Examiner		Art Unit	
	Chirag G. Shah		2664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is generally narrative and indefinite, failing to conform with current U.S. practice.

Claim Objections

3. Claim 6 objected to because of the following informalities: Claim 6 recite limitation “capable of”. Under MPEP 2106, page 2100-8, “language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 and 3-8 rejected under 35 U.S.C. 102(e) as being anticipated by Howe (U.S. Pub. 2005/0058149 A1).

Referring to claim 1, Howe discloses in **fig. 37** of a method comprising:

between a source and a **destination [source 1 and destination 5, see fig. 37]**, pre-arranging one or more Internet connected nodes to transmit a signal from a first node to a second node without a buffering delay and/or a route computation delay for at least one or more predetermined time periods [see **paragraph 0857, where the source 1 transmits and switches its information directly across the network, on a predetermined, precisely scheduled “path”, with no buffering and no delays**], in order to establish a virtual time multiplexed circuit between source and the destination [**predetermined precisely scheduled path between source 1 and destination 5 via links, see fig. 37**], at least in part, to enable bi-directional data communication between the source and destination [**source 1 to destination 5, see fig. 37**];

wherein a particular one of the one or more predetermined time periods is determined based at least in part on a transmission link bandwidth of a particular node [see **paragraph 0293 and fig. 37, where transmission path 12 and 13 operate at T-1 speeds of 1.54Mbps**] as claim..

Regarding claim 3, Howe disclose in **fig. 37** of a system comprising:

a virtual dedicated communication path comprising one or more Internet connected nodes [**source 1 transmits and switches its information directly across the network on a predetermined precisely scheduled path, see fig. 37 and paragraphs 0857**], wherein the one

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or more nodes may be pre-arranged for one or more periods of time [**a node is pre-arranged for predetermined precisely scheduled path, see paragraph 0857**], to transmit a signal from a first node to a second node without a buffering delay and/or a route calculation delay [see **paragraph 0857, where the source 1 transmits and switches its information directly across the network, on a predetermined, precisely scheduled “path”, with no buffering and no delays**],

wherein a particular one of said one or more respective periods of time is determined based at least in part on a transmission link bandwidth of a particular one of the one or more nodes [see **paragraph 0293 and fig. 37, where transmission path 12 and 13 operate at T-1 speeds of 1.54Mbps**] as claim.

Regarding claim 6, Howe discloses in **figs. 37 and 57** of a system comprising:

a connection manager [**time scheduled controller 120, see fig. 57**] capable of connecting a source and a destination at least in part by designating one or more Internet Connected nodes for transmitting a signal from a first node to a second node without a buffering delay and/or a route calculation delay, at least in part by designating the one or more nodes for transmitting said signal for one or more periods of time [see **paragraph 0857 and fig. 37, where the source 1 transmits and switches its information directly across the network, on a predetermined, precisely scheduled “path”, with no buffering and no delays**], wherein a particular one or the one or more periods of time is determined based at least in part on a transmission link bandwidth of a particular one of the one or more nodes [see **paragraph 0293 and fig. 37, where transmission path 12 and 13 operate at T-1 speeds of 1.54Mbps**].

Regarding claims 4 and 7, Howe discloses wherein the virtual dedicated communication path comprises a first unidirectional virtual dedicated circuit and a second unidirectional virtual dedicated circuit [see fig. 10, where a first stand data network and a second timed packet, voice data dedicated circuit are depicted].

Regarding claims 5 and 8, Howe discloses wherein at least one of the unidirectional virtual dedicated circuits is active for a period of time [the virtual dedicated circuits of fig. 37 is active for a period of time as clearly suggested by paragraph 0857, where source 1 transmits and switches its information directly across the network, on a predetermined, precisely scheduled “path”, with no buffering and no delays].

Response to Arguments

6. Applicant's arguments with respect to claims 1 and 3-8 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag G. Shah whose telephone number is 571-272-3144. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cgs
January 12, 2006


Ajit Patel
Primary Examiner